



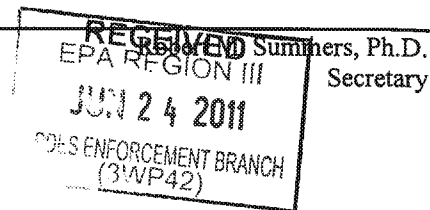
MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley
Governor

Anthony G. Brown
Lieutenant Governor



June 21, 2011

David B. McGuigan, Ph.D., Associate Director
Office of Permits and Enforcement
Water Protection Division
USEPA Region 3
1650 Arch Street
Philadelphia PA 19103-2029

Dear Dr. McGuigan:

This letter is in response to your March 25, 2011 letter requesting strategies for permitting and performing compliance activities within the concentrated animal feeding operation (CAFO) program. In your letter you provided guidance for the development and presentation of these strategies. Enclosed, in your format, are our strategies to satisfy the second and third objectives of the joint CAFO permitting and enforcement work plan entitled, "Strengthening EPA and State Performance 106 Permits and Enforcement CAFO Work Plan":

- All Medium and Large CAFOs obtain NPDES permit coverage sufficient to meet the national program goals for CAFOs; and
- CAFO compliance assurance activities meet program requirements pursuant to 40 CFR §123.26, and specifically EPA's October 17, 2007 "Compliance Monitoring Strategy for the Core Program."

In short, our permitting strategy targets those CAFOs that have submitted NOIs and CNMPs, which can be processed since they have submitted the necessary documents. The Department is processing these chronologically, unless there is a reason to re-prioritize a newer application, such as if it is a new source, new construction or other reason. The issues with older CNMPs developed by technical service providers is that they do not include all of the nine minimum standards. Updating these has been a challenge due to the unreimbursed costs associated with revisiting a farm they may not have visited for a couple of years. This has delayed processing of many of the older applications. CNMPs received since mid-2010 are usually complete and can be processed quicker. We anticipate being able to process about 140 registrations per year with our two permit writers. MAFO applications are lower priority since they, by definition, may not discharge to surface waters.

In light of the Fifth Circuit Court decision, identification of CAFOs that have the duty to apply has been more challenging. We are sending out letters and speaking at meetings to assure that those who actually discharge apply. Also, we are visiting "suspected" CAFOs that have been identified using EPA Region 3's drive-by/flyover list and Maryland Department of Agriculture's



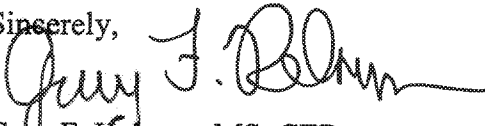
list of livestock operations. When an actual discharge or evidence of an actual discharge is discovered, these facilities are given the necessary paperwork and required to apply within fifteen days. If they fail to submit the application, they are considered for enforcement action..

Regarding our compliance and enforcement strategy, our standard operating procedures (enclosed) prioritized those animal feeding operations that pose an immediate threat to the environment. We have committed to inspect all registered CAFOs each federal fiscal year under our 106 grant. Also, we can perform comprehensive inspections of those AFOs that have signed compliance schedules pending their development of a CNMP. The compliance schedule requires implementation of most of the requirements of the General Discharge Permit including annual reporting and most of the nine minimum standards.

Both our permitting enforcement strategies may be modified as conditions warrant in this constantly evolving program, but our basic commitment to assuring that those facilities that are required to be registered are registered and that those facilities that violate the conditions of the permit, CNMP, compliance schedule or the Clean Water Act are undergo proper enforcement based on consistent application of the requirements of the program. We are confident that our program meets or exceeds regulatory requirements.

If you have any questions, please contact me at 410-537-4423 or gkelman@mde.state.md.us.

Sincerely,



Gary F. Kelman, MS, CEP
Head CAFO Section

Enclosures

GFK:GFK:gfk

cc: Mr. Horacio Tablada

**Concentrated Animal Feeding Operations Permit Strategy for
Maryland (6-15-2011)**



- I. Objectives:
- A. Ensure all Animal Feeding Operations (AFOs) that need permits have applied for permits;
 - B. Ensure all AFOs that need to be permitted submit adequate Comprehensive Nutrient Management Plans (CNMPs) or Nutrient Management Plans (NMPs) in accordance with Maryland Department of Agriculture (MDA)
 - C. Ensure all permitted Concentrated Animal Feeding Operations (CAFOs) have current and adequate NMPs;
 - D. Ensure an adequate coverage to those unpermitted AFOs that are in the process to be permitted.
- II. Measures:
- A. Ensure all AFOs that need permits have applied for permits;
 - 1. Measure: All suspected AFOs have been contacted by MDE to advise them of their legal obligations.
 - a. Compare Maryland Department of the Environment (MDE) list of Notices of Intent (NOI) received with
 - (1) EPA Region 3 list of suspected AFOs; and
 - (2) MDA list.
 - 2. Measure: Notify new NOIs discovered as a result of strategy as they are discovered.
 - B. Ensure all AFOs that need to be permitted submit adequate CNMPs or NMPs.
 - 1. Measure: Review all AFO applications to assure adequate CNMPs or MDA-NMPs as they are processed.
 - C. Ensure all permitted CAFOs have current and adequate CNMPs;
 - 1. Measure: Review CNMPs of all AFOs being processed during permitting process and require updates when necessary.
 - 2. Measure: Review CNMPs during pre-registration site visits.
 - 3. Measure: Inspect CNMPs of registered CAFOs during registered CAFO inspections.
 - 4. Measure: Track all registrations on MDE CAFO database.
 - D. Ensure an adequate coverage to those unpermitted AFOs that are in the process to be permitted.
 - 1. Measure: All CAFOs needing CNMPs must sign compliance schedules that contain requirements to implement all permit requirements that can be accomplished without a CNMP..
 - 2. Measure: Compliance schedule acquisition is tracked on MDE CAFO database for all CAFOs needing compliance schedules.
 - 3. Measure: Require 6-month status reports and review all 6-month status reports from compliance schedule signees documenting progress towards acquisition of CNMP.

4. Measure: Assure progress towards CNMP receipt through comparison of status reports over time.
5. Measure: Track all status report receipt status on MDE CAFO database.

III. Resources:

A. Available Internal Resources

1. Two dedicated permit writers and equipment.
 - a. One permit writer with agricultural background.
 - b. One permit writer needing training.
2. Three inspectors to follow up recalcitrant applicants.
 - a. One inspector with agricultural background.
 - b. One inspector with agricultural training.
 - c. One inspector who started March 28th needing training.

B. Productivity

1. Approximately 70 registrations per year per permit writer.

C. Challenges

1. 460 CAFO NOIs to process
2. With current staff, could take over 3 years to register all applicants.
3. No dedicated vehicle for permit writers.
4. Fifth Circuit ruling raises questions as to duty to apply.

D. Future Needs (wish list)

1. One additional permit writer with agricultural background.
2. One additional inspector with agricultural background.
3. One additional vehicles for permit writers.
4. Training for all staff on agricultural practices.

E. Future Plans

1. No additional staff due to budgetary constraints.
2. No additional vehicles or other equipment due to budgetary constraints.

IV. Strategy:

A. Ensure all AFOs that need permits have applied for permits;

1. Compare Maryland Department of the Environment (MDE) list of Notices of Intent (NOI) received with
 - a. EPA Region 3 list of suspected AFOs;
 - b. MDA list; and
 - c. Drive by inspections of suspected CAFOs by MDE inspectors.
2. Develop list of suspected CAFOs who have not submitted NOIs
3. Perform inspections of suspected CAFO list to determine whether the farms should have sent in their NOIs.
4. If the farm should have sent in an NOI, issue site complaint, deliver forms and require suspected CAFO to fill out forms within 15 days.
5. If the farm does not submit the NOI within 15 days, issue notice of violation with penalty determined by guidance.

B. Ensure all AFOs that need to be permitted submit adequate CNMPs or NMPs;

1. Track CNMP/NMP receipt on MDE database
 2. Require CAFOs not submitting CNMPs to enter into a compliance schedule which requires semi-annual status reporting of their progress to obtain a CNMP and implementation of all permit requirements that can be implemented without the information in a CNMP.
 3. Review CNMPs for inclusion of 9 minimum standards as part of registration review process.
 4. Work with CNMP planner and CAFO operator to update/enhance CNMP, if necessary.
- C. Ensure all permitted CAFOs have current and adequate CNMPs;
1. Review CNMPs submitted by CAFOs for inclusion of 9 minimum standards and are current for the current growing season as part of permit registration process
 2. Permit requires CAFO to notify MDE if there are any changes necessitating an update of the CNMP or NMP (Part IVF of the permit).
 3. CAFO inspections include a determination if the CNMP is current and is being implemented.
- D. Ensure an adequate coverage to those unpermitted AFOs that are in the process to be permitted.
1. Require all CAFOs needing CNMPs to sign compliance schedules that contain requirements to implement all permit requirements that can be accomplished without a CNMP.
 2. Track status of CNMP acquisition progress every 6 months via status reports.
- E. Numbers as of June 15, 2011:

Total NOIs Submitted to Date	588
CAFO Facilities	463
Permitted CAFO Facilities	74
CAFO Facilities to be Permitted	389
Facilities to be Permitted as MAFOs	99

- F. Permit Assistance Activities:
1. Participate in agricultural meetings/training sponsored by:
 - a. MDA
 - b. USDA-NRCS
 - c. Maryland Farm Bureau
 - d. UMD Extension
 - e. Delmarva Poultry Industry, Inc.
 - f. Maryland Cattlemen's Association
 2. Write articles for newsletters sponsored by:
 - a. MDA
 - b. Delmarva Poultry Industry, Inc.
 - c. MDE e-news
 3. Meet with permit registrants to explain permit and answer questions.
 4. Assist registrants and compliance schedule signees in completion of CAFO annual reports.

G. Review of Permit Application:

1. Permit application is reviewed in accordance with permit review procedures (enclosed). This includes a completeness check, a check to assure that the legal entity is registered to do business in Maryland.

H. Review of CNMP:

1. CNMPs are reviewed to assure that all 9 minimum standards for water quality protection are included and the technical numbers make sense in accordance with permit review procedures (enclosed).
2. All CNMPs undergo some level of review:
 - a. CNMPs written by NRCS are reviewed to assure that the latest template was used and all 9 standards are addressed.
 - b. CNMPs written by TSPs are reviewed more closely to assure all numbers make sense, the latest template was used and all 9 standards are addressed.

I. Registering CAFOs:

1. Once the NOI and CNMP pass the technical review, in most cases, a site visit is arranged with the applicant. The purpose of the site visit is to update and verify the information in the NOI and the CNMP.
 - a. Site visits may not be performed if the application is from a no-land operation that has no unusual issues and the information provided by the applicant can be verified through other means.
 - b. More complex no-land situations and land operations always will be subject to a site visit by a permit writer.
2. After the site visit, the NOI and the CNMP are placed in a local library in the county that the CAFO is located.
 - a. A letter is mailed to the applicant notifying them that the documents will be open to public comment for 30 calendar days.
 - b. CAFO database is updated to reflect public participation dates and this automatically is available on the MDE website as public notice in accordance with COMAR 26.08.04.09N(3)(c).
3. If no written comments are received within one week of the end of the comment period, a letter is sent to the applicant forwarding a registration number and a copy of the permit.
4. If written comments are received, a "response to comments" document is drafted with input from the CNMP planner and applicant if necessary and the operation is registered, with a letter sent to the applicant as above.

J. Tracking of Registrations:

1. Registrations are tracked in an MDE database, soon to be migrated to MDE's enterprise database TEMPO. TEMPO reports are being generated to extract information to satisfy most data requests.

V. Milestones

A. Quarterly Permit Reports to EPA.

1. Quarterly tracking of permit program implementation

- a. # facilities defined as CAFOs
 - b. # facilities yet to have CAFO determinations
 - c. # CAFOs with NPDES permits to date
 - d. Program revision date for the 2008 CAFO Rule, as necessary
 - e. GP revision date under the 2008 CAFO Rule, as necessary
 - f. Technical standards revision date, as necessary
- B. Semi-annual report listing CAFOs and permit status in conjunction with the Section 106 grant process.

Concentrated Animal Feeding Operations Compliance Strategy for Maryland (6-15-2011)

- I. Objective:
 - A. Ensure all Concentrated Animal Feeding Operations (CAFOs) that need permits have applied for permits
 - B. Ensure permittees are in compliance with the terms of their permits.
- II. Measures:
 - A. Ensure all CAFOs that need permits have applied for permits.
 - 1. Compare MDE CAFO NOI list with Maryland Department of Agriculture's (MDA's) and EPA's lists and drive-by inspections.
 - a. Measure: Contact all operations that have not applied and inspected to determine whether or not they are required to apply.
 - b. Measure: Issue site complaints to all operations that are required to submit NOIs that have not. Site compliant will require submittal of NOIs within 15 calendar days.
 - c. Measure: All operations issued Site Complaints will send in NOIs.
 - d. Measure: Issue notices of violation to all operations who fail to send in NOIs within 15 calendar days. Include penalty for failure to apply.
 - e. Measure: Issue complaint and order with stipulated penalties every 15 calendar days the operation fails to submit the NOI for failure to send in NOI.
 - 2. Response to complaints reveal unpermitted operations.
 - a. Measure: Issue Site Complaints to all operations requiring submittal of NOIs within 15 calendar days.
 - b. Measure: All operations issued Site Complaints will send in NOIs.
 - c. Measure: Issue notices of violation with a penalty for failure to apply to all operations who fail to send in NOIs within 15 calendar days requiring submittal of NOI within 15 calendar days.
 - d. Measure: Issue complaint and order with stipulated penalties every 15 calendar days the operation fails to submit the NOI.
 - 3. Above measures will be tracked in MDE databases and forwarded to EPA upon request.
 - B. Ensure permittees are in compliance with the terms of their permits.
 - 1. Inspect all registered CAFOs annually including records, CNMP implementation schedule, CNMP terms of permit and farm observation.
 - a. Complete inspection checklist in TRIP (laptop inspection program that synchronizes with MDE TEMPO enterprise database) documenting the inspection.
 - b. Print out Report of Observations and deliver and explain results of inspection to operator, along with any directives. Require operator to sign report.
 - c. Synchronize TRIP with TEMPO weekly.

2. Random inspections of CAFOs without CNMPs that are under compliance schedules.
 - a. See B1.
3. Review Annual Reports
 - a. Develop list of CAFOs who are required to submit Annual Reports.
 - b. Compare reports received with list.
 - c. Send reminder letter to those who failed to send in Annual Report requiring report within 15 days.
 - d. Send final letter to those who failed to send in Annual Report requiring report.
 - e. If report is not submitted within 15 days, draft notice of violation with penalty.
4. Compliance Assistance
 - a. All Inspections include a compliance assistance component with follow-up documentation and compliance verification.

III. Resources

- A. Ensure all CAFOs that need permits have applied for permits; and Ensure permittees are in compliance with the terms of their permits
 1. Available
 - a. 3 inspectors
 - b. 3 vehicles
 - c. 3 laptops
 - d. 3 printers
 - e. Other equipment
 2. Needed
 - a. 1 inspector
 - b. 1 vehicles
 - c. Other equipment for 1 inspectors (camera, auger, boots,
 - d. Sampling equipment
 - e. Funds to support sampling efforts.
 3. Constraints to fulfilling goals
 - a. State hiring freeze
 - b. Lack of Funding

IV. Strategy

- A. Ensure all CAFOs that need permits have applied for permits
 1. Compare MDE CAFO NOI list with MDA's and EPA's lists and drive-by inspections.
 1. Contact and inspect all operations that have not applied to determine whether or not they are required to apply.
 2. Issue site complaints to all operations that are required to submit NOIs that have not requiring submittal of NOIs within 15 calendar days.
 3. All operations issued Site Complaints will send in NOIs.

4. Issue notices of violation with a penalty for failure to apply to all operations who fail to send in NOIs within 15 calendar days.
 5. Issue a complaint and order with stipulated penalties every 15 calendar days to all the operation that fail to submit the NOI.
 2. Response to complaints reveal unpermitted operations.
 1. Issue Site Complaints requiring submittal of NOIs within 15 calendar days to all operations that require application.
 2. All operations issued Site Complaints will send in NOIs.
 3. Issue notices of violation with a penalty for failure to apply requiring submittal of NOI within 15 calendar days to all operations that fail to send in NOIs within 15 calendar days of site compliant. Failure to send in NOI will result in issuance of a complaint and order with stipulated penalties every 15 calendar days the operation fails to submit the NOI.
 3. Above measures will be tracked in MDE databases and forwarded to EPA upon request.
 - B. Ensure permittees are in compliance with the terms of their permits.
 1. Inspect all registered CAFOs annually including records, CNMP implementation schedule, CNMP terms of permit and farm observation.
 1. Complete inspection checklist in TRIP documenting the inspection.
 2. Print out Report of Observations and deliver and explain results of inspection to operator, along with any directives. Require operator to sign report.
 3. Synchronize TRIP with TEMPO weekly.
 2. Random inspections of CAFOs without CNMPs under compliance schedules.
 1. See B1.
 - c. Review Annual Reports
 1. Develop list of CAFOs who are required to submit Annual Reports.
 2. Compare reports received with list.
 3. Send reminder letter to those who failed to send in Annual Report requiring report within 15 days.
 4. Send final letter to those who failed to send in Annual Report requiring report and referring operator for enforcement action.
 - d. Compliance Assistance
 1. All inspections include a compliance assistance component with follow-up documentation and compliance verification.
- V. Milestones
- A. Permitting Quarterly Reports listing
 1. # facilities defined as CAFOs
 2. # facilities Submitting NOIs
 3. # facilities registered as CAFOs under the General Permit
 4. # facilities on compliance schedules
 5. # CNMPs received

B. Compliance Quarterly Reports listing

1. # registered facilities inspected
2. # compliance schedule facilities inspected
3. # compliance assistance rendered
4. # site complaints issued
5. # notices of violation issues
6. # administrative orders issued
7. # civil actions
8. # criminal actions
9. Penalties collected (\$)
10. Penalties requested (\$)
11. List of penalty actions including farm name, address, violation and penalty.

C. Compliance Reports to EPA

1. List of NOIs submitted including farm name, address and technical information until can be migrated through to ISIS.
2. Semi-annual report listing operations inspected and compliance/enforcement status in conjunction with the Section 106 grant process.

MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE)
Land Management Administration

**Notice of Intent (NOI) & Required Plans Review Process for
Coverage under the General Discharge (General) Permit for
Animal Feeding Operation (AFO)**
Clean Water Act (40 CFR 122-125 & 412); Environment Article Title 9, Subtitle 3; &
COMAR 26.08.01 through 26.08.04

- ☐ NPDES (CAFO) Permit No. MDG01
☐ STATE (MAFO) Permit No. 09AF

(Effective Date: December 1, 2009

Expiration Date: November 30, 2014)

Facility/Feedlot/Farm Legal Name: _____ (**AKA:** _____)
Facility/Feedlot/Farm Location: _____
City: _____ **County:** _____ **Zip:** _____
Registration #: _____ **TEMPO AI #:** _____

Definitions:

"Animal Feeding Operation (AFO)" According to COMAR 26.08.01.01B(5-1) it means a feedlot or facility where: (a) Non-aquatic animals are confined, fed, and maintained for at least 45 days in any 12-month period; and (b) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

According to Part II A of the General Permit, AFO means a lot of facility (other than an aquatic animal production facility) where the following conditions are met: (1) animal (other than aquatic animal) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and (2) crops, forage, or post-harvest residues are not sustained in the normal growing season over any portion of the lot of facility. Two or more AFOs under common ownership are considered to be a single AFO for the purpose of determining the number of animals or house capacity at an operation, if they adjoin each other or if they use a common area or system for disposal of waste.

"Comprehensive Nutrient Management Plan (CNMP)" According to COMAR 26.08.01.01B(13-1) it means a nutrient management and conservation plan that is developed in accordance with the Natural Resources Conservation Service (NRCS) planning policy and meets NRCS technical standards.

According to Part II G of the General Permit, CNMP describes and documents a conservation system that is unique to an AFO. The CNMP addresses all aspects of the AFO including animal waste handling, nutrient management, and conservation practices as described in the Natural Resources Conservation Service National Planning Procedures Handbook, Part 600.5, Amendment 4, March 2003, which is consistent with all requirements of COMAR 15.20.08 and federal effluent guidelines at 40 CFR 412.31.

"Concentrated Animal Feeding Operation (CAFO)" According to COMAR 26.08.01.01B(13-2) it means:

- (a) A medium AFO or large AFO, based upon the size categories established in Table 1 of COMAR 26.08.03.09A, that discharges or proposes to discharge, as defined by the Federal Act, to surface waters of this State;
- (b) A small AFO designated as CAFO by the Department in accordance with COMAR 26.08.03.09B; or
- (c) An AFO designated as a CAFO by the Regional Administrator (RA) of the EPA in accordance with the Federal Act.

According to Part II E of the General Permit, CAFO means an AFO that is designated as a CAFO in accordance with Part IA, sections 1-3, IA6 and IA7 of the GD Permit. A CAFO is required to obtain authorization to discharge pollutants to waters of the State under this GD Permit or an individual permit. CAFOs are authorized to discharge under State General Discharge Permit No. 09AF and federal NPDES General Permit No. MDG01, the requirements for both of which are included herein as a single document (referred to as the General Permit).

"Maryland Animal Feeding Operation (MAFO)" According to COMAR 26.08.01.01B(42-1) it means an AFO that is not a CAFO and is:

- (a) A large AFO according to Table 1 of COMAR 26.08.03.09A;

- (b) A medium AFO according to Table 1 of COMAR 26.08.03.09A, designated a MAFO in accordance with COMAR 26.08.03.09C(2); or
- (c) A chicken (other than laying hens) AFO with dry manure handling and at least 75,000 square feet total house capacity:
 - (i) That has not submitted to the Department a certification of conformance required under COMAR 26.08.03.09F; or
 - (ii) For which the certification of conformance has been rejected in accordance with that regulation.

According to Part II Q of the General Permit, MAFO means an AFO requiring a State discharge permit as designated under Parts IA4 – IA6 of the General Permit.

"Nutrient Management Plan (NMP)" According to COMAR 26.08.01.01B(42-1) it means a plan written by a nutrient management planner certified by the Maryland Department of Agriculture (MDA) that meets all requirements of COMAR 15.20.07 and 15.20.08 and any other requirements specified by the Department in a discharge permit issued pursuant to this subtitle.

According to Part II R of the General Permit, NMP means a plan written by a nutrient management planner certified by MDA that meets all requirements of COMAR 15.20.07 and 15.20.08.

"NMP and Conservation Plan" According to Part II S of the General Permit it means the nutrient management and conservation elements (manure and wastewater handling, and storage and land treatment practices) in a CNMP, or, applicable to MAFOs only, a NMP and a Soil Conservation and Water Quality Plan (Conservation Plan). The NMP and CP must together meet all applicable plan requirements specified by the Department under the terms of the General Permit.

"Soil Conservation and Water Quality Plan (conservation plan)[CP]" According to COMAR 26.08.01.01B(83-1) it means a plan that is developed by a soil conservation district, MDA, a Natural Resources Conservation Service (NRCS) planner, or a technical service provider certified by the NRCS that addresses the following minimum elements:

- (a) Storage for animal manure and litter, including any need for additional storage or manure transfer;
- (b) Stabilized surfaces in heavy use areas;
- (c) Diversion of storm water away from the production area;
- (d) Maintenance of vegetation around the production area;
- (e) Construction and maintenance of filter strip or strips or water control structures between the production area and surface water; and
- (f) Mortality management.

According to Part II DD of the General Permit, CP means a plan developed by a Soil Conservation District, MDA, a Natural Resources Conservation Service (NRCS) planner, or a technical service provider certified by the NRCS that is coordinated with the Nutrient Management Plan for the facility, and addresses the Conservation Plan elements detailed in Part IV.A.1 of this permit.

NEW REGISTRATION PROCESS

Subject to § 1-601 of the Public Participation in the Permitting Process Requirements

1. **NOI Package Completeness Check:** Applicant submits a NOI on the form provided by MDE, & all required plans (CNMP, NMP, or CP), & all supporting documents & information.
2. **Administrative Completeness Check:** Project Manager (PM) reviews the NOI to ensure that it is administratively complete (see Items A – E and Section I & II). PM updates database (TEMPO or applicable database) & monthly project status sheet. [within 5 working days (WDs)]. If the NOI is incomplete, PM/MDE communicates with the applicant to address all deficiencies. [15 WDs]
 - A. PM verifies that the NOI contains all required information & supporting documents, & that the NOI & all required plans are signed & dated (Section I);
 - B. PM verifies the applicant's registration with the Maryland State Department of Assessment & Taxation (MSDAT). PM includes a copy of the verification sheet in this NOI file, if applicable;
 - C. PM verifies proof of workers' compensation coverage as required under §1-202 of the Environment Article, if applicable;
 - D. Based on animal type (_____), using AFO size chart & applicable definitions in Section II, PM verifies if the Facility/Feedlot/Farm is small, medium or large and whether it is a CAFO or MAFO or neither; and
 - E. Using Section II, PM determines if the Facility/Feedlot/Farm is an existing or new source.

CAFOs are required to submit a CNMP. MAFOs are required to submit a NMP & CP. MAFOs have the option of using a CNMP in lieu of a NMP & CP. A CNMP Status form with a NMP can be used to temporarily satisfy this CAFO requirement until the CNMP is submitted (see compliance schedule). Application package cannot be processed until the NOI AND the appropriate plans are received.

3. **Technical Completeness Check:** PM conducts a technical review of the CNMP, NMP, or CP to ensure that it meets the minimum requirements specified under the regulations. If the plans are incomplete, PM communicates with the applicant to address all deficiencies. [30 WDs]
There are three technical completeness reviews possible, depending on the author of the CNMP as follows: CNMP developed by USDA – NRCS (use Section III); CNMP developed by a Technical Service Provider (TSP, use Section IV); or it is a MAFO that submitted a NMP & CP (use Section V)
4. **Site Visit:** When the PM considers the NOI Package (NOI and applicable plans) technically complete, PM arranges & conducts a site visit together with the applicant & CAFO inspector, if available. [20 WDs]
5. **Preliminary Approval & Public Participation:** After the site visit, the applications for CAFO or MAFO permits are subject to public notification requirements, in accordance with COMAR 26.08.04.09N. Pursuant to COMAR 26.08.04.09N(3)(c), "publication of public notices or public notification required by this regulation may be accomplished by posting on MDE's web site at www.mde.state.md.us. PM enters deadline into the database for public notification. [30 WDs]

For CAFO: *Notice of Receipt of NOI & Opportunity to Request a Public Hearing on the Required Plan(s) for Coverage of a CAFO under a General Discharge Permit.*

A public hearing will be held upon request to review MDE's preliminary approval of the required CNMP if a written request is received on or before 20 calendar days of the publication of notice on the MDE

website. The request should indicate the name, address, & daytime telephone numbers of the person making the request, the name of any party whom the person making the request may represent, & the name of the operation. Interested parties may also submit written comments whether or not a hearing is requested. Any written comments concerning the preliminary approval must be received by the close of business 30 calendar days of the publication of notice on MDE website.

For MAFO: *Notice of Receipt of NOI & Opportunity to Comment on Required Plan(s) for Coverage of a MAFO under a General Discharge Permit.*

MAFOs are NOT subject to a public hearing. However, interested parties may submit written comments. Any written comments concerning the preliminary approval must be received by the close of business within 30 calendar days of the publication of the notice on the MDE website.

6. **Public Hearing:** MDE schedules and holds a public hearing, if applicable. MDE may consolidate public hearings within a county for more than one Facility/Feedlot/Farm. [30 WDs]
7. **Final Determination:** MDE makes a determination regarding the issuance of the permit based on the outcome of the public hearing, if applicable &/or the (contested case hearing or judicial review). [15 WDs]
8. **Judicial Review:** Applicant or aggrieved party may contest MDE's determination. If (contested or judicial review based on new Jan. 2010 law), the State will provide for a (contested case hearing or judicial review) in accordance with §10-202 (APA Requirements)
9. **Registration:** PM sends letter to applicant confirming registration under the permit.

The estimated time to issue a registration, once a completed NOI & required plans are received, is 6 months.

CAFO/MAFO Registration Milestone Date Summary Log (AI # _____; Registration # _____)

1. NOI Package Completeness Check:

	<u>Required</u>	<u>Received</u>	<u>Date Received</u>
- NOI	<input type="checkbox"/>	<input type="checkbox"/>	_____
- CNMP (Plan Dated: _____)	<input type="checkbox"/>	<input type="checkbox"/>	_____
> CNMP Status Form & Updates:	<input type="checkbox"/>	<input type="checkbox"/>	_____
> CNMP Proposed Submittal Date: _____			_____
- NMP	<input type="checkbox"/>	<input type="checkbox"/>	_____
- CP	<input type="checkbox"/>	<input type="checkbox"/>	_____
- NMP/CP Updates:	<input type="checkbox"/>	<input type="checkbox"/>	_____
- A topographic map of the facility:	<input type="checkbox"/>	<input type="checkbox"/>	_____
- Certificate of Conformance:	<input type="checkbox"/>	<input type="checkbox"/>	_____
- Permit fee: \$ _____	<input type="checkbox"/>	<input type="checkbox"/>	_____
- Other Requirements (Describe): _____	<input type="checkbox"/>	<input type="checkbox"/>	_____

Package Complete (all parts received, ready for processing) Date Complete: _____

2. Administrative Completeness Check:

Date/√

- _____A. The NOI contains all required information & supporting documents, & the NOI & all required plans are signed & dated (Section I);
- _____B. The applicant is registered with the Maryland State Department of Assessment & Taxation (MSDAT). Include a copy of the verification sheet in this NOI file, if applicable;
- _____C. The proof of workers' compensation coverage as required under §1-202 of the Environment Article has been verified, if applicable;
- _____D. Based on animal type (_____), using AFO size chart & applicable definitions in Section II, the Facility/Feedlot/Farm is:
- Small ☐ Medium ☐ Large ☐
- CAFO ☐ MAFO ☐ Neither ☐; and
- _____E. Using Section II, the Facility/Feedlot/Farm is an:
- Existing Source ☐ New Source ☐

3. Technical Completeness Review:

Date Completed:

- ☐ Plan Technical Review Complete (check applicable situation)
- ☐ CNMP by USDA – NRCS (Section III) _____
- ☐ CNMP by TSP (Section IV) _____
- ☐ NMP & CP for MAFO (Section V) _____

4. Site Visit

5. Preliminary Approval & Public Participation:

Date Completed: _____

- ☐ If CAFO, deadline for requesting Public Hearing of CNMP placed in searchable database _____
- ☐ If CAFO, deadline for receiving written comments placed in searchable database _____
- ☐ If CAFO, CNMP and NOI copied for public notice _____
- ☐ If CAFO, name & address of library placed in searchable database _____
- ☐ If MAFO, Deadline for Receiving Written Comments placed in searchable database _____
- ☐ If MAFO, NOI, NMP & CP copied for public notice _____
- ☐ Send out farmer notification of public notice letter _____
- ☐ If MAFO, name & address of library placed in searchable database _____
- ☐ Documents taken to library _____
- ☐ Documents removed from library _____
- ☐ Response to comments prepared _____
- ☐ Hearing Requested (CAFOs only): Yes ☐ No ☐ _____
- ☐ Hearing Scheduled (CAFOs only) _____

6. Hearing for CNMP Held (CAFOs only)

- ☐ Response to issues raised at hearing prepared (CAFOs only) _____

7. Final Determination

8. Judicial Review.

9. Registration:

- ☐ Registration letter drafted _____
- ☐ Registration letter issued _____

CERTIFICATION OF REGISTRATION REDINESS: I certify that I have completed the review of this NOI & required plan(s) & determined that it meets the minimum requirements under COMAR 26.08.01 through 26.08.04, & other applicable laws & regulations. Therefore, I recommend that the *Facility/Feedlot/Farm* be covered under the following Discharge Permit:

☐ MAFO Permit No. 09AF

☐ NPDES (CAFO) Permit No. MDG01

Project Manager/Date of Completion

Section Head/Date of Review

NOI Package Review Detail

Section I. NOI Review

	YES	NO	N/A	Comments
Does the NOI contain:				
1. Tax ID or EIN for the responsible party?				
2. Coordinates Lat & Log for the farm?				
3. Watershed Code:				
4. Does the NOI depict the type of & number of animals?				
5. Does the manure generation appear to be consistent with established guidelines from USDA or UMD?				
6. Does the NOI depict the type & volume of storage for waste produced?				
7. Is the waste land applied?				If so, what cropland is utilized?

NOI Complete & Acceptable: _____

Section II. CAFO/MAFO Determination (Section 2D)

According to the following table, is the operation a large, medium or small AFO? _____

- **Large AFO:** Criteria used in this determination:
 - o Number of Animals: _____
 - o House size (for chickens with dry manure handling only): _____
- **Medium AFO:** Criteria used in this determination:
 - o Number of Animals: _____
 - o House size (for chickens with dry manure handling only): _____
- **Small AFO:** Criteria used in this determination:
 - o Number of Animals: _____

Status determined by: Owner/operator ☐ MDE ☐ EPA ☐

AFO Table of Small, Medium, & Large Size Categories

Animal Type	Size Category - Number of Animals or House Capacity (ft ²)		
	Large	Medium	Small
Cattle (includes heifers)	≥ 1000 animals	300—999	< 300
Dairy cattle	≥ 700 animals	200—699	< 200
Horses	≥ 500 animals	150—499	< 150
Veal	≥ 1000 animals	300—999	< 300
Swine ≥ 55 pounds	≥ 2500 animals	750—2499	< 750
Swine < 55 pounds	≥ 10,000 animals	3,000—9,999	< 3,000
Sheep and lambs	≥ 10,000 animals	3,000—9,999	< 3,000
Ducks with liquid manure handling*	≥ 5,000 animals	1,500—4,999	< 1,500
Chickens with liquid manure handling	≥ 30,000 animals	9,000—29,999	< 9,000
Ducks with dry manure handling	≥ 30,000 animals	10,000—29,999	< 10,000
Laying hens with dry manure handling	≥ 82,000 animals	25,000—81,999	< 25,000
Chickens (other than laying hens) with dry manure handling	≥ 125,000 animals or ≥ 100,000 ft ²	37,500—124,999 animals and < 100,000 ft ²	< 37,500 animals
Turkeys	≥ 55,000 animals	16,500—54,999 animals	< 16,500 animals

CAFO/MAFO Determination Worksheet (Section 2D)

CAFO	<i>* If the answer to questions 1 & 2 OR question 3 are YES, then the AFO is a CAFO.</i>	YES	NO
	* 1. Is it a large or medium AFO?		
	* 2. Does it propose to discharge? According to 40 CFR 122.23(d), who must seek coverage under an NPDES permit? – (1) Permit Requirements. The owner or operator of a CAFO must seek coverage under an NPDES permit if the CAFO discharges or proposes to discharge. A CAFO proposes to discharge if it is designed, constructed, operated, or maintained such that a discharge will occur. Specifically, the CAFO owner or operator must either apply for an individual NPDES permit or submit a notice of intent for coverage under an NPDES general permit. If the Director has not made a general permit available to the CAFO, the CAFO owner or operator must submit an application for an individual permit to the Director.		
	* 3. Has MDE or EPA designated it a CAFO? ○ : If yes, reason:		
MAFO	** If the answer to questions 4 OR 5 is YES, then the AFO is a MAFO.		
	** 4. Is it a large AFO, but not a CAFO?		
	** 5. Has MDE designated it a MAFO? ○ If yes, reason:		
Other:	*** If the answers to questions 6 & 7 & 8 are YES, it is necessary to submit a Certification of Conformance. (requirement of section 1(A)(5)(a) of the permit requires submittal within three years of the effective date of the permit if the AFO is existing or prior to beginning operation if the AFO is new).		
	*** 6. Is it within the animal type “chickens (other than laying hens) with dry manure handling?		
	*** 7. Is the house capacity greater than 75,000 sq. ft but below 100,000 sq. ft?		
	*** 8. Is it not categorized as a CAFO or MAFO?		

Existing or New Source Determination Worksheet (Section 2E)

If YES to 1 OR 2 Or 3, then the operation is a new source; If NO, then the operation is an existing source	YES	NO
1. Is the CAFO a totally new operation, having been constructed on a land where no animal feeding operation existed before?		
2. Have all chicken houses & manure storage sheds on the operation been replaced with new buildings since December 1, 2009 ?		
3. Is the new structure built after December 1, 2009 substantially independent of the existing structures?		

☐ This operation is a **NEW** source.

☐ This operation is an **EXISTING** source.

Section III.

Review of CNMPs Developed by USDA-NRCS for CAFOs or MAFOs
Based on standards developed by NRCS by April 30, 2010

CNMP – NRCS Certification

	YES	NO	N/A	Section/Page	Comments
A. Was the CNMP approved/certified by USDA-NRCS?					Date CNMP approved/certified by NRCS:
1. The CNMP must be signed & dated by the owner/operator.					
2. The CNMP must have a Compliance Agreement signed & dated by the farm owner/operator & the NRCS Certified Conservation Planner/TSP.					
B. The entire CNMP must be filed, not a summary.					
C. All 12 sections must be included as follows:					
1. CNMP Purpose & Special Conditions					
2. Emergency Action Plan & Chemical Handling					
3. Maps of the Agricultural Operation					
4. Manure & Wastewater Handling & Storage					
5. Land Treatment Practices					
6. Nutrient Management, Soil Test Results, Projected Soil Phosphorous Trends, Number of Years at Planned Nutrient Management to Reach 150 FIV					
7. Record Keeping					
8. Feed Management					
9. Other Utilization Activities (Optional if					

Needed)					
10. Summary of Nutrient Recommendations – Field Application Sheet					
11. Manure Analysis & Application Equipment Calibration Procedures					
12. CAFO Permit; Resource Inventory for Conservation Planning Worksheets; other appropriate supporting documents not included in other parts of the plan					
D. The NMP must not be more than three years old.					
E. The CNMP must include an implementation schedule signed by the owner/operator for required conservation practices.					
G. The CNMP must be signed & dated by the District Manager of the applicable Soil Conservation District, if the CNMP was developed by NRCS					

Nine Minimum Standards

	YES	NO	N/A	Section/Page	Comments
Does the CNMP address the nine minimum standards to protect water quality [40 CFR Part 122.42(e)(1)]?					
1. Does the CNMP address adequate storage capacity? *					* For liquid manure –Adequate storage for 180 days of manure generated. For dry manure –Adequate storage for 180 days of “crust-outs”.
2. Does the CNMP					

address proper management of mortalities?					
3. Does the CNMP include provisions that address the diversion of clean waters from the production area?					
4. Does the CNMP address prevention of direct contact of animals with waters of the State?					How? __ Fencing __ Other _____ __ Confinement
5. Does the CNMP address chemical handling so that agricultural chemicals will be handled & stored in such a manner that manure & wastewater will not become contaminated?					How?
6. Conservation practices to reduce nutrient loss (not applicable for No Land Operations)					
7. Protocols for manure & soil testing					
8. Protocols for land application of manure & wastewater					
9. Record Keeping					

CNMP Complete & Acceptable: _____

Section IV. Review of CNMP developed by TSPs for CAFOs or MAFOs

CNMP – TSP Certification:

	YES	NO	N/A	Comments
1. Was the CNMP developed by a NRCS "certified" TSP?				
2. Is the TSP currently listed in				If no, confirm status with USDA-NRCS. If confirmed, proceed with review.

the NCRS Tech Registry?				
3. Is the TSP certified to develop/approve an entire CNMP?				If No then list Name, Certification No of individual(s) responsible for developing each CNMP Section: _____
4. Name of USDA-NRCS Certified TSP & Certificate Number:				
5. Name of MDA Certified Nutrient Management Planner & Certificate Number:				

CNMP

	YES	NO	N/A	Section/Page	Comments
A. The entire CNMP must be filed, not a summary.					
B. All 12 sections must be included as follows:					
1. CNMP Purpose & Special Conditions					
2. Emergency Action Plan & Chemical Handling					
3. Maps of the Agricultural Operation					
4. Manure & Wastewater Handling & Storage					
5. Land Treatment Practices					
6. Nutrient Management, Soil Test Results, Projected Soil Phosphorous Trends, Number of Years at Planned Nutrient Management to Reach 150 FIV					
7. Record Keeping					
8. Feed Management					
9. Other Utilization Activities (Optional if Needed)					

10. Summary of Nutrient Recommendations -- Field Application Sheet					
11. Manure Analysis & Application Equipment Calibration Procedures					
12. CAFO Operation Permit; Resource Inventory for Conservation Planning Worksheets; other appropriate supporting documents not included in other parts of the plan					
C. The NMP must not be more than three years old.					
D. The CNMP must include an implementation schedule signed by the owner/operator for required conservation practices.					

Nine Minimum Standards

	YES	NO	N/A	Section/Page	Comments
Does the CNMP address the nine minimum standards to protect water quality [40 CFR Part 122.42(e)(1)]?					
1. Does the CNMP address adequate storage capacity? *					* For liquid manure --Adequate storage for 180 days of manure generated. For dry manure --Adequate storage for 180 days of "crust-outs".
a. The CNMP addresses the volume & duration of manure/wastewater storage *					* Based on manure generated by number of animals stated in CNMP being reviewed.
b. The storage					* Only applicable for liquid manure.

design accounts for rainfall-runoff for the 25 year-24 hour storm event for uncovered facilities. *					
c. Manure utilization					___ Energy Production ___ Land Application ___ Other _____ ___ Composting ___ Perdue AgriRecycle Export
2. Does the CNMP address proper management of mortalities?					
Animal mortality is addressed in the CNMP:					___ Composting ___ Burial ___ Other _____ ___ Rendering ___ Incineration
3. Does the CNMP include provisions that address the diversion of clean waters from the production area?					
Storm runoff is diverted, other wise managed:					How?
4. Does the CNMP address prevention of direct contact of animals with waters of the State?					How? ___ Fencing ___ Other _____ ___ Confinement
5. Does the CNMP address chemical handling so that agricultural chemicals will be handled & stored in such a manner that manure & wastewater will not become contaminated?					How?
6. Conservation practices to reduce nutrient loss (not applicable for No Land Operations)					
a. What conservation practices are planned to control runoff from					___ Swales ___ Other _____ ___ Ditches ___ Grass Waterways ___ Filter Strips

croplands & field storage sites?					
b. An implementation schedule for required BMP is located:					
c. Pertinent O&M requirements for required BMPs are located:					
7. Protocols for manure & soil testing					
Protocols for the sampling & analysis of manure, wastewater & soils?					
8. Protocols for land application of manure & wastewater (not applicable for No Land Operations)					
a. Proposed manure/wastewater loadings do not exceed land's capacity for utilizing nutrients from the manure/wastewater:	Does Not Exceed	Exceeds			
b. A map, consistent with the NMP & CP delineates buffer zones, setbacks & isolation distances for natural & cultural resources can be found:					
9. Record Keeping					
Records that document the development & implementation of the NMP & CP:					

CNMP – TSP Complete & Acceptable: _____

Section V. Review of NMP & CP Submitted by MAFOs

NMP Certification:

	YES	NO	N/A	Comments
Name of MDA Certified Nutrient Management Planner & Certificate No.				

NMP

	YES	NO	N/A	Section/Page	Comments
NMP Identification: Are all farms/fields receiving manure identified in a table?					
Are these same farms/fields depicted on a map(s)?					
NMP Maintenance: What is the planning period?					
Does the NMP include soil tests & manure analysis?					
NMP include Nutrient Recommendations for each farm/field?					
Does the NMP address requirements for record keeping?					

CP Certification:

	YES	NO	N/A	Comments
Name of Conservation Planner & USDA Certification No.				

CP

	YES	NO	N/A	Section/Page	Comments
Does the CP identify & evaluate					

farms/fields receiving manure?					
Are these same farms/fields depicted on a map(s)?					
Are the farms/fields IDs correlate with those depicted in NMP?					
Does the CP address storage for animal manure including any need for additional storage or transfer?					
Are these stabilized surfaces in heavy use areas?					
Does the CP address the diversion of storm water from the production area?					
Does the CP address maintenance of vegetation around production area?					
Does the CP address construction & maintenance of strip or strips or water control structures between production area & surface water?					
Does the CP address mortality management?					

Nine Minimum Standards

	YES	NO	N/A	Section/Page	Comments
Does the CP address the nine minimum standards to protect water quality [40 CFR Part 122.42(e)(1)]?					
1. Does the CP address adequate storage capacity? *					* For liquid manure –Adequate storage for 180 days of manure generated. For dry manure –Adequate storage for 180 days of “crust-outs”.
a. The CP addresses					* Based on manure generated by number of

the volume & duration of manure/wastewater storage *					animals stated in CNMP being reviewed.
b. The storage design accounts for rainfall-runoff for the 25 year-24 hour storm event for uncovered facilities. *					* Only applicable for liquid manure.
c. Manure utilization					___ Energy Production ___ Land Application ___ Other _____ ___ Composting ___ Perdue AgriRecycle ___ Export
2. Does the CP address proper management of mortalities?					
Animal mortality is addressed in the CP:					___ Composting ___ Burial ___ Other _____ ___ Rendering ___ Incineration
3. Does the CP include provisions that address the diversion of clean waters from the production area?					
Storm runoff is diverted, other wise managed:					How?
4. Does the CP address prevention of direct contact of animals with waters of the State?					How? ___ Fencing ___ Other _____ ___ Confinement
5. Does the CP address chemical handling so that agricultural chemicals will be handled & stored in such a manner that manure & wastewater will not become contaminated?					How?
6. Conservation practices to reduce nutrient loss (not applicable for No Land Operations)					

a. What conservation practices are planned to control runoff from croplands & field storage sites?					___ Swales ___ Other ___ Ditches ___ Grass Waterways ___ Filter Strips
b. An implementation schedule for required BMP is located:					
c. Pertinent O&M requirements for required BMPs are located:					
7. Protocols for manure & soil testing					
Protocols for the sampling & analysis of manure, wastewater & soils?					
8. Protocols for land application of manure & wastewater					
a. Proposed manure/wastewater loadings do not exceed land's capacity for utilizing nutrients from the manure/wastewater:	Does Not Exceed	Exceeds			
b. A map, consistent with the NMP & CP delineates buffer zones, setbacks & isolation distances for natural & cultural resources can be found:					
9. Record Keeping					
Records that document the development & implementation of the NMP & CP:					

NMP & CP Complete & Acceptable: _____